



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

SPECIAL ATTENTION OF:

NOTICE PIH 2023-29

Office Directors of Public Housing;
Regional Directors; Public Housing
Agencies

Issued: October 12, 2023

Expires: This notice remains in effect until
amended, superseded, or rescinded.

Cross References: Notices PIH 2022-30, 2022-09;
PIH 2022-04; 2021-34; 2021-14; PIH 2018-16; and
82 FR 5458 (January 18, 2017).

Subject: Certain Regulatory Waivers for the Housing Choice Voucher (including Mainstream) Program and Streamlined Review Process.

1. Purpose

This Notice provides a streamlined submission and review process for regulatory waivers for (1) new payment standard amounts through December 31, 2024 and (2) increasing the payment standard during the HAP contract term. This streamlined process greatly simplifies and expedites the process Public Housing Agencies (PHAs) undertake to receive approval of regulatory waivers for these purposes. These regulatory waivers specifically relate to assisting PHAs in responding to ongoing fluctuations and disruptions in the rental market by providing more flexibility with establishing and applying payment standards.

Under this streamlined process, PHAs submit a simple email to HUD requesting a regulatory waiver(s). HUD anticipates that this email generally will be one paragraph in length. Once approved by HUD, the PHA may exercise the flexibility offered under the waiver(s) for its Housing Choice Voucher program, including its Project-based Voucher program. PHAs that previously were approved for a streamlined or expedited regulatory waiver under similar PIH notices (2022-30, 2022-09, 2022-04, 2021-34 or 2021-14), *and* PHAs that have never applied under those notices, must submit a new request following the instructions under Section 4 of this notice. PHAs that have questions on how to submit a request may contact [PIH Expedited Waivers@hud.gov](mailto:PIH_Expedited_Waivers@hud.gov).

PHAs must use the process set forth in this Notice to submit waiver requests and justification of good cause to receive a streamlined HUD review. HUD has developed a streamlined process to respond to these waiver requests in accordance with Section 106 of the Department of Housing and Urban Development Reform Act of 1989. This streamlined review process only applies to the waivers under this notice.

Requests under this Notice must be received by 11:59 p.m. eastern time on June 3, 2024.

2. Background

PIH notices 2022-30, 2022-09, 2022-04, 2021-34, and 2021-14 provided an expedited or streamlined process for PHAs requesting certain regulatory waivers in order to provide flexibility to PHAs in administering their programs. Under these notices, PHAs may have received a regulatory waiver of 24 CFR 982.503(b)(1)(i), allowing for an increase of the payment standard basic range up to 120 percent of the fair market rent, 24 CFR 982.503(b)(1)(iii), allowing certain PHAs to increase an exception payment standard to up to 120 percent of the small area fair market rent (SAFMR) for a ZIP code area, and/or 24 CFR 982.505(c)(4), allowing payment standard increases to be applied earlier than the annual reexamination. Those waiver approvals expire on the date provided in the PHA's approval response from HUD.

3. Regulatory Waivers Eligible for Streamlined Waiver Process

To assist PHAs in managing ongoing challenges related to rental market fluctuations, HUD has created a streamlined waiver process for four payment standard related waivers. PHAs may submit streamlined waiver requests through June 3, 2024. The four payment standard waivers, which are further described in this section, are:

- A. *Exception payment standards up to 120 percent of the SAFMRs for PHAs that are in mandatory SAFMR areas or have voluntarily chosen to adopt SAFMRs (“Opt-In PHAs”)*
- B. *Exception payment standards up to 120 percent of the FMR*
- C. *Exception payment standards up to 120 percent for PHAs that are currently approved for exception payment standard SAFMRs*
- D. *Applying an increase in the payment standard during the HAP contract term*

HUD notes that waivers A and B offered under this Notice are different than those offered under PIH Notice 2022-30 and its predecessor notices. In the prior notices, the regulatory waiver of 24 CFR 982.503(b)(1)(i) allowed PHAs to adjust the fair market rent *basic range* up to 120 percent. Under this notice, PHAs will apply for regulatory waivers related to exception payment standards.

The three exception payment standard waivers generally are only applicable to the FY 2024 FMRs. However, PHAs with a pending FMR reevaluation that elect to continue to use the FY 2023 FMRs may request to use this waiver to establish payment standards of up to 120 percent of the FY 2023 FMR. PHAs are reminded that all rent reasonableness requirements at 24 CFR 982.507 apply to HCV units, regardless of whether the PHA has established an exception payment standard.

Consistent with the waiver authority in 24 CFR 5.110, HUD will consider requests to approve the following regulatory waivers based on a PHA's statement of good cause.

- A. *Exception payment standards up to 120 percent of the SAFMRs for PHAs that are in a mandatory SAFMR area or Opt-In PHAs*

PHAs that are located in a mandatory SAFMR area, or have voluntarily chosen to use SAFMRs for their entire jurisdiction, may apply for a regulatory waiver under this section to increase their payment standards up to 120 percent of the SAFMRs for their area. Based on the PHA's

statement of good cause discussed below, HUD may waive 24 CFR 982.503(b)(1)(iv) which provides “At the request of a PHA administering the HCV program under Small Area FMRs under § 888.113(c)(3), HUD may approve an exception payment standard for a Small Area FMR area above the 110 percent of the published FMR in accordance with conditions set forth by Notice in the Federal Register. The requirements of paragraph (c) of this section do not apply to these exception payment standard requests and approvals.”

In order to receive this waiver, a PHA must meet at least one of the following criteria:

- Fewer than 80 percent of the families to whom the PHA issued tenant-based rental vouchers during the most recent 12-month period for which there is success rate data available have become participants in the voucher program; or
- More than 40 percent of families with tenant-based rental assistance administered by the agency pay more than 30 percent of adjusted income as the family share.

For these calculations, the PHA should include all tenant-based vouchers, including all special purpose vouchers. The PHA must identify which of the criteria it meets as part of its good cause justification in its submission. If HUD approves the waiver, the PHA may establish exception payment standards up to 120 percent of its applicable FY 2024 SAFMRs.

The PHA may use the exception payment standards for its tenant-based program. Under 24 CFR 888.113(h), SAFMRs do not apply to project-based vouchers (PBV), unless one of the exceptions in 24 CFR 888.113(h)(1) or (2) applies.

B. Exception payment standards up to 120 percent of the FMR

PHAs that set their payment standards using the Fair Market Rent may apply for a regulatory waiver under this section to increase their payment standards up to the 120 percent of the FMR, as applicable. Based on the PHA’s statement of good cause discussed below, HUD may waive the following program regulations:

- 24 CFR 982.503(c)(1) which says, “HUD discretion. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the fair market rent area (called an “exception area”). HUD may approve an exception payment standard amount in accordance with this paragraph (c) of this section for all units, or for all units of a given unit size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount.”
- 24 CFR 982.503(c)(2) which says, “Above 110 percent of FMR to 120 percent of published FMR. The HUD Field Office may approve an exception payment standard amount from above 110 percent of the published FMR to 120 percent of the published FMR (upper range) if the HUD Field Office determines that approval is justified by the median rent method or the 40th percentile rent or the Small Area FMR method as described in paragraph (c)(2)(ii) of this section (and that such approval is also supported by an appropriate program justification in accordance with paragraph (c)(4) of this section). (i) Median rent method. In the median rent method, HUD determines the exception payment standard amount by multiplying the FMR times a fraction of which the numerator is the median gross rent of the exception area and the denominator is the

median gross rent of the entire FMR area. In this method, HUD uses median gross rent data from the most recent decennial United States census, and the exception area may be any geographic entity within the FMR area (or any combination of such entities) for which median gross rent data is provided in decennial census products. (ii) 40th percentile rent or Small Area FMR method. In this method, HUD determines that the area exception payment standard amount equals application of the 40th percentile of rents for standard quality rental housing in the exception area or the Small Area FMR. HUD determines whether the 40th percentile rent or Small Area FMR applies in accordance with the methodology described in 24 CFR 888.113 for determining FMRs. A PHA must present statistically representative rental housing survey data to justify HUD approval.”

- 24 CFR 982.503(c)(4) which says, “Program justification. (i) HUD will only approve an exception payment standard amount (pursuant to paragraph (c)(2) or paragraph (c)(3) of this section) if HUD determines that approval of such higher amount is needed either: (A) To help families find housing outside areas of high poverty, or (B) Because voucher holders have trouble finding housing for lease under the program within the term of the voucher. (ii) HUD will only approve an exception payment standard amount (pursuant to paragraph (c)(3) of this section) after six months from the date of HUD approval of an exception payment standard pursuant to paragraph (c)(2) of this section for the area.”
- 24 CFR 982.503(c)(5) which says, “Population. The total population of HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area, except when applying Small Area FMR exception areas under paragraph (b)(1)(iii) of this section.”

In order to receive this waiver, a PHA must meet at least one of the following criteria:

- Fewer than 80 percent of the families to whom the PHA issued tenant-based rental vouchers during the most recent 12-month period for which there is success rate data available have become participants in the voucher program; or
- More than 40 percent of families with tenant-based rental assistance administered by the agency pay more than 30 percent of adjusted income as the family share.

For these calculations, the PHA should include all tenant-based vouchers, including all special purpose vouchers. The PHA must identify which of the criteria (which are calculated for the PHA’s entire program) it meets as part of its good cause justification in its submission. If HUD approves the waiver, the PHA may establish exception payment standards up to 120 percent of their applicable FY 2024 FMRs.

The PHA may use the exception payment standards for its tenant-based voucher program throughout the entire FMR area(s) within its jurisdiction.¹

¹ If the PHA has a HUD-approved HCV exception payment standard, the applicable PBV rent cap is the HUD approved exception payment standard instead of the normally applicable cap of 110 percent of FMR. If the PHA administers PBVs, the amount of rent to owner under 24 CFR 983.301(b) must not exceed the lowest of the rent requested by the owner, the reasonable rent, or an amount determined by the PHA, not to exceed 110 percent of the applicable FMR or any exception payment standard approved by the Secretary, minus utility allowance (see 24 CFR 983.301(c) for calculations applicable to certain tax credit units.

A PHA that uses the FMR to establish payment standards for some portion of its jurisdiction in combination with SAFMR exception payment standards for another portion of its jurisdiction and wishes to establish payment standards up to 120% for both, must apply for waiver B *and* waiver C.

C. Exception payment standards up to 120 percent of the SAFMR for PHAs that are currently approved for exception payment standard SAFMRs

PHAs that are currently approved for exception payment standard SAFMRs for certain zip codes only under 24 CFR 982.503(b)(1)(iii) and PIH Notice 2018-01, may apply for a regulatory waiver under this section to increase their payment standards up to the 120 percent of the SAFMR, as applicable. PHAs that currently use exception payment standard SAFMRs in combination with the FMR may apply for this waiver and waiver B. Based on the PHA's statement of good cause discussed below, HUD may waive the following program regulations:

- 24 CFR 982.503(b)(1)(iii) which says, "A PHA that is not in a designated Small Area FMR area or has not opted to voluntarily implement Small Area FMRs under 24 CFR 888.113(c)(3) may establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published Small Area FMRs. The PHA may establish an exception payment standard up to 110 percent of the HUD published Small Area FMR for that ZIP code area. The PHA must notify HUD if it establishes an exception payment standard based on the Small Area FMR. The exception payment standard must apply to the entire ZIP code area."

In order to receive this waiver, a PHA must meet at least one of the following criteria:

- Fewer than 80 percent of the families to whom the PHA issued tenant-based rental vouchers during the most recent 12-month period for which there is success rate data available have become participants in the voucher program; or
- More than 40 percent of families with tenant-based rental assistance administered by the agency pay more than 30 percent of adjusted income as the family share.

For these calculations, the PHA should include all tenant-based vouchers, including all special purpose vouchers. The PHA must identify which of the criteria it meets as part of its good cause justification in its submission. If HUD approves the waiver, the PHA may establish exception payment standards up to 120 percent of its applicable FY 2024 SAFMRs. Please note that the PHA must have first properly adopted SAFMRs in accordance with PIH Notice 2018-01 to apply for this waiver.

A PHA that uses the FMR to establish payment standards for some portion of its jurisdiction in combination with SAFMR exception payment standards for another portion of its jurisdiction and wishes to establish payment standards up to 120% for both, must apply for this waiver B *and* waiver C.

D. Applying an increase in the payment standard during the HAP contract term

Based on the PHA's statement of good cause, HUD may approve a waiver of 24 CFR 982.505(c)(4) which says, "Increase in the payment standard amount during the HAP contract

term. If the payment standard amount is increased during the term of the HAP contract, the increased payment standard amount shall be used to calculate the monthly housing assistance payment for the family beginning at the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard amount.”

Examples of good cause for this waiver include, but are not limited to:

- PHA has experienced an increase in family rent burdens
- PHA anticipates potential negative impacts to tenants or the onset of housing instability

The PHA will describe its good cause justification in its submission. If HUD approves its waiver request, the PHA may increase the payment standard for the family at any time after the effective date of the increase, rather than waiting for the next regular reexamination.

4. Submission Requirements

Requests must be received by HUD on or before 11:59 pm eastern time on June 3, 2024, to receive streamlined processing.

To ensure streamlined processing, PHAs should email its waiver requests to PIH_Expedited_Waivers@hud.gov with a copy to their local field office public housing directors. Each request must include:

- (1) An email subject line of: “Streamlined Regulatory Waiver Request, [PHA name and code]”.
- (2) Body of email should include:
 - PHA business address and name and email for point of contact.
 - Name of the regulatory waiver(s) being requested.
 - A PHA-specific justification for the waiver(s) that shows good cause.
 - The good cause justification must include (a) why a PHA needs the waiver and (b) the impact on PHA operations or applicants if the waiver is not provided
 - Requested duration of the waiver(s).
 - Waiver duration may not exceed December 31, 2024. HUD may provide a shorter timeframe or other conditions as a part of an approval.

Prior to submission, the PHA must determine the budgetary impacts on its program and ensure they have the available budget authority to support these payment standard related waivers. PHAs are encouraged to use the “[Payment Standard Tool](#)” to help determine the budgetary impacts.

Following submission, PIH will reply via email confirming that the request has been received. The PIH Program Office prepares a final determination for approval by its Assistant Secretary and PHAs receive the signed response to the waiver request via email.

No waiver(s) requested may be implemented unless written approval from HUD has been obtained.

PHAs may continue to request other regulatory waivers as necessary to operate its HCV program; however, they will not be subject to the streamlined process. PHA waivers submitted under the streamlined process in this Notice should not be combined with waivers submitted under the standard process described in PIH Notice 2018-16. PHAs requesting exception payment standard SAFMRs under PIH Notice 2018-01 also should not combine those requests with requests under this Notice.

7. For further information: Contact Alison Bell, Housing Voucher Management and Operations Division, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 4214, Washington, DC 20410-5000, or email to PIH_Expedited_Waivers@hud.gov.



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